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**SUBSTITUTE HOUSE BILL 3062**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Newhouse, Chandler and Hinkle)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to approving certain watershed plan modifications;  
2 and amending RCW 90.82.130.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 90.82.130 and 2003 1st sp.s. c 4 s 5 are each amended  
5 to read as follows:

6 (1)(a) Upon completing its proposed watershed plan, the planning  
7 unit may approve the proposal by consensus of all of the members of the  
8 planning unit or by consensus among the members of the planning unit  
9 appointed to represent units of government and a majority vote of the  
10 nongovernmental members of the planning unit.

11 (b) If the proposal is approved by the planning unit, the unit  
12 shall submit the proposal to the counties with territory within the  
13 management area. If the planning unit has received funding beyond the  
14 initial organizing grant under RCW 90.82.040, such a proposal approved  
15 by the planning unit shall be submitted to the counties within four  
16 years of the date that funds beyond the initial funding are first drawn  
17 upon by the planning unit.

18 (c) If the watershed plan is not approved by the planning unit, the

1 planning unit may submit the components of the plan for which agreement  
2 is achieved using the procedure under (a) of this subsection, or the  
3 planning unit may terminate the planning process.

4 (2)(a) With the exception of a county legislative authority that  
5 chooses to opt out of watershed planning as provided in (c) of this  
6 subsection, the legislative authority of each of the counties with  
7 territory in the management area shall provide public notice of and  
8 conduct at least one public hearing on the proposed watershed plan  
9 submitted under this section. After the public hearings, the  
10 legislative authorities of these counties shall convene in joint  
11 session to consider the proposal. The counties may approve or reject  
12 the proposed watershed plan for the management area, but may not amend  
13 it. Approval of such a proposal shall be made by a majority vote of  
14 the members of each of the counties with territory in the management  
15 area.

16 (b) If a proposed watershed plan is not approved, it shall be  
17 returned to the planning unit with recommendations for revisions.  
18 Approval of such a revised proposal by the planning unit and the  
19 counties shall be made in the same manner provided for the original  
20 watershed plan. If approval of the revised plan is not achieved, the  
21 process shall terminate.

22 (c) A county legislative authority may choose to opt out of  
23 watershed planning under this chapter and the public hearing processes  
24 under (a) and (b) of this subsection if the county's affected territory  
25 within a particular management area is: (i) Less than five percent of  
26 the total territory within the management area; or (ii) five percent or  
27 more of the total territory within the management area and all other  
28 initiating governments within the management area consent. A county  
29 meeting these conditions and choosing to opt out shall notify the  
30 department and the other initiating governments of that choice prior to  
31 commencement of plan adoption under the provisions of (a) of this  
32 subsection. A county choosing to opt out under the provisions of this  
33 section shall not be bound by obligations contained in the watershed  
34 plan adopted for that management area under this chapter. Even if a  
35 county chooses to opt out under the provisions of this section, the  
36 other counties within a management area may adopt a proposed watershed  
37 plan as provided in this chapter.

1 (3) The planning unit shall not add an element to its watershed  
2 plan that creates an obligation unless each of the governments to be  
3 obligated has at least one representative on the planning unit and the  
4 respective members appointed to represent those governments agree to  
5 adding the element that creates the obligation. A member's agreeing to  
6 add an element shall be evidenced by a recorded vote of all members of  
7 the planning unit in which the members record support for adding the  
8 element. If the watershed plan is approved under subsections (1) and  
9 (2) of this section and the plan creates obligations: (a) For agencies  
10 of state government, the agencies shall adopt by rule the obligations  
11 of both state and county governments and rules implementing the state  
12 obligations, or, with the consent of the planning unit, may adopt  
13 policies, procedures, or agreements related to the obligations or  
14 implementation of the obligations in addition to or in lieu of rules.  
15 The obligations on state agencies are binding upon adoption of the  
16 obligations, and the agencies shall take other actions to fulfill their  
17 obligations as soon as possible, and should annually review  
18 implementation needs with respect to budget and staffing; (b) for  
19 counties, the obligations are binding on the counties and the counties  
20 shall adopt any necessary implementing ordinances and take other  
21 actions to fulfill their obligations as soon as possible, and should  
22 annually review implementation needs with respect to budget and  
23 staffing; or (c) for an organization voluntarily accepting an  
24 obligation, the organization must adopt policies, procedures,  
25 agreements, rules, or ordinances to implement the plan, and should  
26 annually review implementation needs with respect to budget and  
27 staffing.

28 (4) After a plan is adopted in accordance with subsection (3) of  
29 this section, and if the department participated in the planning  
30 process, the plan shall be deemed to satisfy the watershed planning  
31 authority of the department with respect to the components included  
32 under the provisions of RCW 90.82.070 through 90.82.100 for the  
33 watershed or watersheds included in the plan. The department shall use  
34 the plan as the framework for making future water resource decisions  
35 for the planned watershed or watersheds. Additionally, the department  
36 shall rely upon the plan as a primary consideration in determining the  
37 public interest related to such decisions.

1 (5) Once a WRIA plan has been approved under subsection (2) of this  
2 section for a watershed, the department may develop and adopt  
3 modifications to the plan (~~(or obligations)~~) imposed by the plan only  
4 through a form of negotiated rule making that uses the same processes  
5 that applied in that watershed for developing and approving the plan  
6 except that, if instream flows were established under the process  
7 provided by RCW 90.82.080, any modification to those flows must be made  
8 using the process in RCW 90.82.080.

9 (6) As used in this section, "obligation" means any action required  
10 as a result of this chapter that imposes upon a tribal government,  
11 county government, or state government, either: A fiscal impact; a  
12 redeployment of resources; or a change of existing policy.

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